

REMARKS

Claims 1-7 and 11-21 were previously cancelled. Claims 22-25 and 29 have been withdrawn. Claims 8-10 and 23-28 are currently pending. Claim 8 has been amended. Figures 6 and 7 have been amended.

Paragraphs 1 and 2 of the Office Action

The drawings have been objected to under 37 CFR 1.83(a) because the “original disclosure does not disclose the specific shape and structure of the needle or the shape of the food contained within the package.”

Figure 6 has been amended to no longer depict a needle attached to the syringe in the IV bag and Figure 7 has been amended to no longer depict the shape of the food contained in the food package. Accordingly, it is believed that the present replacement versions of Figures 6 and 7 are no longer objectionable. Therefore, inclusion of Figures 6 and 7 should be approved and withdrawal of this objection is respectfully requested.

Paragraph 3 of the Office Action

According to the May 21, 2003 Office Action, claims 8-10 and 22-25 have been finally rejected under 35 U.S.C. §103(a) as being unpatentable over Katsura et al, U.S. Patent No. 5,223,315, in view of Heider, U.S. Patent No. 5,405,667 and Admitted Prior Art. However, in a telephone interview with Primary Examiner Luong, on August 21, 2003, Examiner Luong clarified that the inclusions of claims 22-25 in this rejection was due to a typographical error (since claims 22-25 and 29 were withdrawn as part of the May 8, 2003 election of claims made in response to the April 8, 2003 restriction requirement) and that the correct version of this rejection under 35 U.S.C. §103(a) is directed at claims 8-10 and 26-28.

Claim 8 has been amended to require that “*the metallic layer is adapted for preventing at least one of an ink and an adhesive in communication with an exterior surface of the metallic layer from migrating into the semi-permeable container and thereby aiding the prevention of*

contamination of items contained in the semi-permeable container from contamination from the at least one of the ink and the adhesive.”

As pointed out by the Examiner, the purpose of the Heider reference is to reduce the manufacturing cost and enhance the attractiveness of the container. In contrast, a feature of the metallic layer in claim 8, as amended, is to help prevent contamination of items in the semi-permeable container by helping to prevent ink and/or adhesive used in labeling from passing through the semi-permeable material of the container. The references forming the basis for this rejection simply do not teach, disclose or suggest all of the features now claimed in amended claim 8. As a result, claim 8, as amended, is now believed to be allowable.

Claims 9, 10 and 26-28 all depend from the amended claim 8. Therefore, By virtue of their dependency from amended claim 8, these claims are now believed to be in condition for allowance. Removal of this rejection of Claims 8-10 and 26-28 is respectful requested.


If for any reason an insufficient fee has been paid, the Examiner is hereby authorized to charge the insufficiency to Deposit Account No. 05-0150.

If the Examiner has any questions or needs any additional information, the Examiner is invited to telephone the undersigned attorney at (650) 843-3215.

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Respectfully submitted,

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Attachments: 2 replacement sheets of drawings for Figures 6 and 7